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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|--------------------|-------------|-----------------------|---------------------|
| 08/596,712         | 02/05/96    | SCHULTZ               | M                   |

13M1/1101

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|          |
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| EXAMINER |
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POPOVICS, R

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1306

DATE MAILED:

4  
1/01/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 8/9/96

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-51 is/are pending in the application.

Of the above, claim(s) 19-33 and 45-51 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-18 and 34-44 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s): \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1306

## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election with traverse of the apparatus, and the species shown in figure one in Paper No. 3 is acknowledged. The traversal is on the ground(s) that a restriction requirement was not made in U.S. Patent 4,610,784. This is not found persuasive because Applicant fails to establish reasons why *this application* should not be restricted.

The requirement is still deemed proper and is therefore made FINAL.

### *Specification*

2. Applicant has cited at least one reference in the body of the specification. If Applicant would like the reference(s) cited to be *officially* considered by the Examiner, Applicant **must** submit an Information Disclosure Statement in accordance with 37 CFR § 1.97 & 1.98; preferably including a completed PTO-1499.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Art Unit: 1306

4. Claims 1-18 and 34-44 are rejected under 35 U.S.C. § 103 as being unpatentable over the combined teachings of CHEN (U.S. Patent No. 5,279,730) and ELLIS (U.S. Patent No. 2,899,063) and REYNIERS (U.S. Patent No. 4,610,784). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of CHEN, ELLIS and REYNIERS, to arrive at Applicant's instant claimed invention.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner R. Popovics whose telephone number is (703) 308-0684.

In the event that Examiner Popovics cannot be reached, Applicant may contact his supervisor; Mr. Robert A. Dawson, Supervisory Patent Examiner, at (703) 308-2340.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

The fax no. for Art Unit 1306 is (703) 305-3602.



**Robert James Popovics  
Primary Examiner  
Art Unit 1306**

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October 28, 1996  
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